

111TH CONGRESS  
1ST SESSION

# S. 995

To amend the Energy and Policy Act of 2005 to reauthorize a provision relating to geothermal lease revenue, to direct the Secretary of the Interior to establish a pilot project to streamline certain Federal renewable energy permitting processes, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 7, 2009

Mr. ENSIGN (for himself and Mr. REID) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Energy and Policy Act of 2005 to reauthorize a provision relating to geothermal lease revenue, to direct the Secretary of the Interior to establish a pilot project to streamline certain Federal renewable energy permitting processes, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Renewable Energy  
5       Permitting Act of 2009”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) PILOT PROJECT.—The term “Pilot Project”  
 2           means the pilot project to improve Federal renew-  
 3           able energy permit coordination established under  
 4           section 3(a).

5           (2) SECRETARY.—The term “Secretary” means  
 6           the Secretary of the Interior.

7   **SEC. 3. PILOT PROJECT TO IMPROVE FEDERAL RENEW-**  
 8                           **ABLE ENERGY PERMIT COORDINATION.**

9           (a) ESTABLISHMENT.—During the period of fiscal  
 10          years 2009 through 2018, the Secretary shall establish  
 11          and carry out a pilot project to improve Federal renewable  
 12          energy permit coordination.

13          (b) MEMORANDUM OF UNDERSTANDING.—

14               (1) IN GENERAL.—Not later than 90 days after  
 15          the date of enactment of this Act, the Secretary  
 16          shall enter into a memorandum of understanding for  
 17          purposes of this section with—

18                       (A) the Secretary of Agriculture;

19                       (B) the Administrator of the Environ-  
 20          mental Protection Agency; and

21                       (C) the Chief of Engineers.

22           (2) STATE PARTICIPATION.—The Secretary  
 23          may request that the Governors of the States of Ari-  
 24          zona, California, Nevada, and Wyoming be signato-

1       ries to the memorandum of understanding described  
2       in paragraph (1).

3       (c) DESIGNATION OF QUALIFIED STAFF.—

4           (1) IN GENERAL.—Not later than 30 days after  
5       the date on which the memorandum of under-  
6       standing under subsection (b) is signed, all Federal  
7       signatory parties shall, if appropriate, assign to each  
8       of the field offices specified in subsection (d) an em-  
9       ployee who has expertise in the regulatory issues re-  
10      lating to the office in which the employee is em-  
11      ployed, including, as applicable, particular expertise  
12      in—

13           (A) the consultations and the preparation  
14      of biological opinions under section 7 of the En-  
15      dangered Species Act of 1973 (16 U.S.C.  
16      1536);

17           (B) permits under section 404 of Federal  
18      Water Pollution Control Act (33 U.S.C. 1344);

19           (C) regulatory matters under the Clean Air  
20      Act (42 U.S.C. 7401 et seq.);

21           (D) planning under section 14 of the Na-  
22      tional Forest Management Act of 1976 (16  
23      U.S.C. 472a); and

1 (E) the preparation of analyses under the  
2 National Environmental Policy Act of 1969 (42  
3 U.S.C. 4321 et seq.).

4 (2) DUTIES.—Each employee assigned under  
5 paragraph (1) shall—

6 (A) not later than 90 days after the date  
7 of assignment, report to field managers of the  
8 Bureau of Land Management in the office to  
9 which the employee is assigned;

10 (B) be responsible for all issues relating to  
11 the jurisdiction of the home office or agency of  
12 the employee; and

13 (C) participate as part of the team of per-  
14 sonnel working on proposed energy projects,  
15 planning, and environmental analyses.

16 (d) FIELD OFFICES.—The field offices referred to in  
17 subsection (c)(1) shall include offices in, at a minimum,  
18 the States of Arizona, California, Nevada, and Wyoming.

19 (e) ADDITIONAL PERSONNEL.—The Secretary shall  
20 assign to each field office specified in subsection (d) any  
21 additional personnel that are necessary to ensure the ef-  
22 fective implementation of—

23 (1) the Pilot Project; and

24 (2) other programs administered by the field of-  
25 fices, including inspection and enforcement relating

1 to renewable energy development on Federal land, in  
2 accordance with the multiple use mandate of the  
3 Federal Land Policy and Management Act of 1976  
4 (43 U.S.C. 1701 et seq.).

5 (f) DISTRIBUTION OF SOLAR AND WIND ENERGY

6 RENTAL INCOME.—

7 (1) IN GENERAL.—Subject to paragraphs (2)  
8 through (5) and notwithstanding any other provision  
9 of law, for fiscal year 2009 and each fiscal year  
10 thereafter, of the amount of solar and wind energy  
11 rental income collected by the Bureau of Land Man-  
12 agement (in lieu of depositing all of the income into  
13 the general fund of the Treasury)—

14 (A) 50 percent shall be paid by the Sec-  
15 retary of the Treasury to the 1 or more States  
16 within the boundaries of which the income is  
17 derived;

18 (B) 25 percent shall be paid by the Sec-  
19 retary of the Treasury to the 1 or more coun-  
20 ties within which the income is derived;

21 (C)(i) in the case of each of fiscal years  
22 2009 through 2018, 20 percent or \$5,000,000,  
23 whichever is less, shall be deposited in a special  
24 fund in the Treasury, to be known as the “Re-

newable Energy Permit Processing Improvement Fund”; and

(ii) in the case of fiscal year 2019 and each fiscal year thereafter, 20 percent shall remain in the general fund of the Treasury; and

(D) 5 percent shall be deposited in a special fund in the Treasury, to be known as the “Solar Energy Land Reclamation, Restoration, and Mitigation Fund”.

(2) VALUATION.—To determine the value of public land for the purpose of determining rental income described in paragraph (1)—

(A) the value of the public land used for solar energy projects shall be determined by the Bureau of Land Management based on statistics of the National Agricultural Statistical Service;

(B) the value of the public land used for wind energy projects shall be determined in accordance with the rental schedule established by the Secretary, acting through the Bureau of Land Management, in effect as of the date of enactment of this Act; and

(C) the value of the public land used for geothermal energy projects shall be determined

1 in accordance with the Energy Policy Act of  
2 2005 (42 U.S.C. 15801 et seq.).

3 (3) RENEWABLE ENERGY PERMIT PROCESSING  
4 IMPROVEMENT FUND.—Amounts in the Renewable  
5 Energy Permit Processing Improvement Fund estab-  
6 lished under paragraph (1)(C)(i) shall be available to  
7 the Secretary for the coordination and processing of  
8 renewable energy permits required for renewable en-  
9 ergy projects on Federal public land.

10 (4) SOLAR ENERGY LAND RECLAMATION, RES-  
11 TIGATION, AND MITIGATION FUND.—

12 (A) IN GENERAL.—Amounts in the Solar  
13 Energy Land Reclamation, Restoration, and  
14 Mitigation Fund under paragraph (1)(D) shall  
15 be available to the Secretary for the purpose  
16 of—

17 (i) reclaiming and restoring public  
18 land used for the production of solar en-  
19 ergy, including land used for ancillary fa-  
20 cilities; and

21 (ii) mitigating impacts on public land,  
22 including protecting other sensitive public  
23 land if the land used for solar or wind  
24 power generation cannot be adequately re-  
25 stored without the use of funds made avail-

1           able under this paragraph, as determined  
2           by the Secretary.

3           (B) MAXIMUM AMOUNT.—

4                 (i) IN GENERAL.—The total amount  
5           of funds deposited in the Solar Energy  
6           Land Reclamation, Restoration, and Miti-  
7           gation Fund under paragraph (1)(D) shall  
8           not exceed \$50,000,000.

9                 (ii) SURPLUS AMOUNTS.—If the total  
10          amount of funds deposited in the Solar  
11          Energy Land Reclamation, Restoration,  
12          and Mitigation Fund under paragraph  
13          (1)(D) is \$50,000,000, any additional  
14          amounts that would otherwise be deposited  
15          in the Fund under paragraph (1)(D) shall  
16          remain in the general fund of the Treas-  
17          ury.

18          (5) AVAILABILITY OF FUNDS.—Amounts under  
19          this subsection shall be available for expenditure in  
20          accordance with this subsection, without further ap-  
21          propriation and without fiscal year limitation.

22          (g) TRANSFER OF FUNDS.—For the purposes of co-  
23          ordination and processing of renewable energy permits re-  
24          quired for renewable energy projects on Federal public  
25          land under the administration of the Pilot Project offices



1 specified in subsection (d), the Secretary may authorize  
2 the expenditure or transfer of such funds as are necessary  
3 to—

- 4 (1) the United States Fish and Wildlife Service;
- 5 (2) the Bureau of Indian Affairs;
- 6 (3) the Forest Service;
- 7 (4) the Environmental Protection Agency;
- 8 (5) the Corps of Engineers; and
- 9 (6) the States of Arizona, California, Nevada,  
10 and Wyoming (for costs incurred by the States relat-  
11 ing to the permitting process).

12 (h) FEES.—During the period in which the Pilot  
13 Project is authorized, the Secretary shall not implement  
14 any regulation or initiate any rulemaking to enable an in-  
15 crease in fees to recover additional costs relating to renew-  
16 able energy permits required for renewable energy projects  
17 on Federal public land.

18 (i) EFFECT ON OTHER AUTHORITY.—Nothing in this  
19 section affects—

- 20 (1) the operation of any Federal or State law;
- 21 or
- 22 (2) any delegation of authority made by the  
23 head of a Federal agency the employees of which are  
24 participating in the Pilot Project.

1 (j) LENGTH OF LEASES FOR RENEWABLE ENERGY  
 2 PROJECTS ON PUBLIC LAND.—The length of leases for  
 3 renewable energy projects on public land carried out under  
 4 this Act shall be determined in accordance with the Fed-  
 5 eral Land Policy and Management Act of 1976 (43 U.S.C.  
 6 1701 et seq.).

7 (k) REPORTS.—Not later than 3 years after the date  
 8 of enactment of this Act, the Secretary shall submit to  
 9 Congress a report that—

10 (1) describes the results of the Pilot Project as  
 11 of the date of the report; and

12 (2) makes a recommendation to the President  
 13 regarding whether the Pilot Project should be imple-  
 14 mented throughout the United States.

15 (l) DEPOSIT AND USE OF GEOTHERMAL LEASE REV-  
 16 ENUES.—Section 234 of the Energy Policy Act of 2005  
 17 (42 U.S.C. 15873) is amended—

18 (1) in the section heading, by striking “**FOR 5**  
 19 **FISCAL YEARS**”; and

20 (2) in subsection (a), by striking “in the first  
 21 5 fiscal years beginning after the date of enactment  
 22 of this Act”.

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